

## **REMARKS/ARGUMENTS**

Claims 1-11 were previously pending in the application. Claims 2, 3, 6, 7, and 10 are canceled, and claims 1, 4, 5, 8, and 9 are amended herein. Assuming the entry of this amendment, claims 1, 4, 5, 8, 9, and 11 are now pending in the application. The Applicant hereby requests further examination and reconsideration of the application in view of the foregoing amendments and these remarks.

In paragraphs 1 and 2 of the office action, the Examiner rejected claims 1-11 under 35 U.S.C. 102(e) as being anticipated by Doshi et al., U.S. Patent No. 6,021,113 (“Doshi”).

For the following reasons, the Applicant submits that claims 1, 4, 5, 8, 9, and 11 are allowable over Doshi.

Claim 1 has been amended to include the recitations of previously-pending claims 2 and 3, and the dependency of claim 4 has been amended accordingly. Claim 5 has been amended to include the recitations of previously-pending claims 6 and 7, and the dependency of claim 8 has been amended accordingly. Claim 9 has been amended to include the recitations of previously-pending claim 10.

Claims 1, 5, and 9, as amended, all require that a determination be made whether the backup path and the primary path are capable of failing simultaneously, in which case the new demand is rejected.

Doshi teaches a network utilizing distributed precomputation techniques to determine primary and backup (restoration) paths. (Abst.; col. 5, lines 59-64.) Such precomputation techniques may be used to determine a restoration path for a given demand under network capacity constraints, such that the restoration path may be used to satisfy the demand in the event of a failure on the primary path. (*Id.*; col. 6, lines 5-10.) The precomputation techniques may be used to determine a primary path only, or a path pair consisting of a primary path and a restoration path. (*Id.*; col. 6, lines 10-12.)

On page 3 of the office action, the Examiner states that “Doshi et al. discloses the limitation of the method of [sic] claimed wherein the determining step includes the steps of: determining, from the failure information, if a simultaneous failure can occur on the backup path and a primary path,” citing column 2, lines 50-53; column 10, lines 35-36 of Doshi, and “if no simultaneous failure can occur, updating usage information for the backup path as a function of

the bandwidth  $d$  associated with the new demand,” citing column 37, lines 40-44 and column 38, lines 1-3. Applicant respectfully submits that this characterization of Doshi is incorrect.

The first referenced portion of Doshi, at column 2, lines 50-53, states that “[i]t is therefore important that a given restoration algorithm achieve restoration of network traffic in the event of span failures as well as link failures, by providing distinct spans and links for the restoration path.” The second referenced portion of Doshi, at column 10, lines 35-36, states that “[t]he algorithm is suitable for automatic restoration of network traffic in an optical network, such as that described in conjunction with FIGS. 6 and 7 above, in the event of single link, node or span failure. The algorithm provides end-to-end path restoration in a distributed and asynchronous manner.” Neither of the first and second referenced portions teaches, discloses, or suggests making a determination whether the backup path and the primary path can fail simultaneously.

The third referenced portion of Doshi, at column 37, lines 40-44, is a portion of a claim reciting: “wherein the link-based capacity control involves storing a link status table at one or more nodes controlling a given one of the links, the link status table listing a number of specific failures and demands which are affected by the failures.” The fourth referenced portion of Doshi, at column 38, lines 1-3, is another portion of the same claim reciting: “wherein the link status table is continuously updated as a corresponding link receives requests for network capacity from demands.” Neither of the third and fourth referenced portions teaches, discloses, or suggests rejecting a new demand if the primary and backup paths are determined to be capable of failing simultaneously.

In fact, nowhere within the four corners of the patent does Doshi teach, disclose, or suggest making a determination whether the backup (restoration) path and the primary path can fail simultaneously, nor does Doshi teach, disclose, or suggest rejecting a new demand on the basis of such a determination, as required by claims 1, 5, and 9. Since these required features of claims 1, 5, and 9 are missing from Doshi, it cannot be said that Doshi anticipates any of claims 1, 5, and 9.

For these reasons, the Applicant respectfully submits that claims 1, 5, and 9 are allowable over Doshi. Since claims 4, 8, and 11 depend variously from claims 1, 5, and 9, it is further submitted that those claims are also allowable over Doshi. The Applicant therefore respectfully submits that the rejections of claims under Sections 102 have been overcome.

In view of the above amendments and remarks, the Applicant believes that the now-pending claims are in condition for allowance. Therefore, the Applicant believes that the entire application is now in condition for allowance, and early and favorable action is respectfully solicited.

Date: \_\_\_\_\_

5/18/05

Customer No. 46850  
Mendelsohn & Associates, P.C.  
1500 John F. Kennedy Blvd., Suite 405  
Philadelphia, Pennsylvania 19102

Respectfully submitted,



Kevin M. Drucker  
Registration No. 47,537  
Attorney for Applicant  
(215) 557-6659 (phone)  
(215) 557-8477 (fax)